

James Madison to John Armstrong, August 13, 1814. Transcription: The Writings of James Madison, ed. Gaillard Hunt. New York: G.P. Putnam's Sons, 1900-1910.

TO JOHN ARMSTRONG. CHIC. HIST. SOC. MSS.

August 13, 1814

For the Department of War.

On viewing the course which the proceedings of the War Department have not unfrequently taken, I find that I owe it to my own responsibility as well as to other considerations, to make some remarks on the relations in which the Head of the Department stands to the President, and to lay down some rules for conducting the business of the Department, which are dictated by the nature of those relations.

In general the Secretary of War, like the Heads of the other Depts. as well by express statute as by the structure of the constitution, acts under the authority & subject to the decisions & instructions of the President; with the exception of cases where the law may vest special & independent powers in the head of the Department.

From the great number & variety of subjects, however, embraced by that Department and the subordinate & routine character of a great portion of them, it cannot be either necessary or convenient that proceedings relative to every subject should receive a previous & positive sanction of the Executive. In cases of that minor sort it is requisite only that they be subsequently communicated as far and as soon as a knowledge of them can be useful or satisfactory.

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In cases of a higher character & importance, involving necessarily, and in the public understanding, a just responsibility of the President, the acts of the Department ought to be either prescribed by him, or preceded by his sanction.

It is not easy to define in theory the cases falling within these different classes, or in practice to discriminate them with uniform exactness. But substantial observance of the distinction is not difficult, and will be facilitated by the confidence between the Executive & the Head of the Department.

This distinction has not been sufficiently kept in view.

I need not repeat the notice heretofore taken of the measure consolidating certain regiments; a measure highly important under more than one aspect; and which was adopted & executed without the knowledge or sanction of the President; nor was it subsequently made known to him otherwise than through the publication of the act in the newspapers.

The like may be said of certain rules & regulations, particularly a Body of them for the Hospital & Medical Depts. of which the law expressly required the approbation of the President, and which comprise a rule to be observed by the P. himself in future appointments. The first knowledge of these latter regulations was derived from the newspapers.

A very remarkable instance is a late general order prohibiting Duels and challenges, on pain of dismissal from the army. However proper such an order may be in itself, it would never be supposed to have been issued without the deliberate sanction of the President, the more particularly as it pledged an exercise of one of the most responsible of the Executive functions, that of summarily dismissing from military offices without the intervention of the military Tribunal provided by law. This order was adopted & promulgated without the previous knowledge of the P. nor was it ever made known to him

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otherwise than by its promulgation. Instructions to military Comanders relating to important plans & operations have been issued without any previous or even any subsequent communication thereof to the Executive; and letters expressly intended & proper for the knowledge & decision of the Ex. have been recd. & acted on without being previously communicated or the measures taken being made known to him.

Other illustrations might be drawn from instances of other sorts, leading to the result of these remarks. The above may suffice, with the addition of one which with the circumstances attending it will be explained by a reference to the letter of resignation from Genl. Harrison, to the letter of the P. to the Secretary of War of May 24, to the issuing of the commission of Major General to General Jackson, and the letter of the Secretary of War accompanying it.

The following course will be observed in future:

To be previously communicated to the President:

1. Orders from the Dept. of War establishing general or permanent regulations.
2. Orders for Courts of Enquiry or Courts Martial, on general officers; or designating the numbers or members of the Courts.
3. Commissions or notifications of appointment to officers other than regular promotions, in uncontested cases.
4. Dismissions of officers from the service.
5. Consolidations of Corps or parts of Corps & translations of Fd. officers from one Regiment to another.
6. Acceptances & refusals of resignations from officers

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above the rank of Captains.

7. Requisitions & receptions of militia into the service & pay of the U. S.

8. Instructions relating to Treaties with Indians.

9. Instructions to officers commanding military Districts, or Corps or Stations, relative to military movements or operations.

10. Changes in the boundaries of military Districts, or the establishmt. of separate commands therein; or the transfer of General officers from one District or command to another District or command.

In the absence of the P. from the seat of Govt. previous communications to him may be waived in urgent cases, but to be subsequently made without delay.

All letters giving military intelligence or containing other matters intended or proper for the knowledge of the P. will of course be immediately communicated to him.

These rules may omit cases falling within, and embrace cases not entirely within, the reason of them. Experience therefore may improve the rules. In the meantime, they will give a more suitable order & course to the business of the Dept. will conduce to a more certain harmony & cooperation in the proceedings of the several Departments, and will furnish the proper opportunity for the advantage of cabinet consultations on cases of a nature to render them expedient.